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FILED
Jun 17, 1976
MICHAEL RODAK, JR., CLERK

Supreme Court of the United States

October Term, 1975
No. 76-1111

LUCIO P. SALVUCCI **Petitioner**
et al

versus

NEW HAMPSHIRE JOCKEY CLUB, INC., **Respondent**
et al

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

LUCIO P. SALVUCCI
Pro Se
746 Commercial Street
Weymouth, Mass. 02189

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1975
NO. _____

LUCIO P. SALVUCCI — *Petitioner*
Pro Se

versus

NEW HAMPSHIRE — *Respondent*
JOCKEY CLUB, INC.,
et al

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

The Petitioner, Lucio P. Salvucci, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the First Circuit, entered in this case on March 1, 1976.

OPINIONS BELOW

The opinion of the Court of Appeals has been officially or unofficially reported and is appended hereto.

JURISDICTION

Under the Statutory provision believed to confer on this Court jurisdiction to review the judgment or decree in question is Appeals (Section 38 [117] of Title 17 USC).

The United States Court of Appeals for the First Circuit ordered dismissed and entered on March 1, 1976. A petition for a re-hearing to the United States Court of Appeals for the First Circuit was filed on March 12, 1976 and denied March 24, 1976. (Opinion appended)

The Statutory provision believed to confer on the court jurisdiction to review the judgment or decrees in question is Appeals (Section 38 [114]).

QUESTIONS PRESENTED

I. Whether Petitioner was denied his constitutional guarantee of his copyrights (Class A Books) under Section 5 Title 17 USC because of diversity of opinions of two or more inferior Federal Courts. Settlement is necessary by this court. (Opinions appended)

II. Whether Petitioner was denied his constitutional guarantee under Article I Section 9 Title 17 USC rights of aliens on copyright reciprocity under treaty, proclamation, agreement, etc.

III. Whether Petitioner was denied his constitutional guarantee under Article I Section 8, 25 [101], Article III Section C, and Article VI USC regarding the jurisdiction and judgment of sovereignty under government, and how it relates to government employees and agents by Section 101 of Title 17 USC.

CONSTITUTIONAL PROVISIONS

First Amendment

A. Title 17, USC
Sections 8, 9, 25 (101)
Section 8, Clause 8 of Title 17

The Congress shall have the power to secure for limited time to authors for their writings, and inventors for their discoveries exclusive right to their respective writings and discoveries.

B. Section 9 entitled: Aliens; reciprocity of copyrights under constitutional provisions, treaties, statutes. The case is subject to the action for review of this court under the Third Amendment Section 2, and the Sixth Amendment to the Constitution. Article VI states in part, *"This Constitution and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, Any thing in the Constitution or Laws of any State to the Contrary not withstanding."*

1. United States Statutes at large 38 Part 2.
   Literary and artistic copyrights (Inter-American) signed at Buenoes Aires August 11, 1910, proclaimed by the president of the United States July 13, 1914, revised by Convention of February 18, 1928, replaced by Convention of June 22, 1946 on September 6, 1952[4] states that its provisions shall prevail over provisions of existing conventions which differ from them in relations between contracting parties to the 1952 convention 38 Stat. 1785 treaty series 593.

2. United States treaties and other agreements.
   Volume 6 part 3 1955 2731-4116
   The Universal Copyright Convention
   Convention and protocols dated Geneva, September 6, 1952 ratification advised by Senate of the United States of America June 25, 1954. Ratified by the president of the United States of America November 5, 1954.

   Ratification of the United States of America, deposited with the United Nations Educational, Scientific, and Cultural Organization December 6, 1954. Proclaimed by the president of the United States of America August 5, 1955.

   Conventions and protocols 1 and 2 entered into force September 16, 1955.

   Protocol 3 entered into force with respect to the United States of America December 6, 1954. Ross

Products Inc. v. New York Merchandise Co., U.S. District Court Southern District, New York May 18, 1964, 233 F. Supp. 260.

Bi-lateral agreement between the United States of America and the Argentine Republic of August 23, 1934. Copyright Reciprocity (Opinions appended)

C. Infringement of copyrights: if any person shall infringe the copyright in any work protected under the copyright laws of the United States such person shall be liable, Title 17 USC Section (101).

If any plain errors or defects affecting substantial rights may be noticed the reason is due to the lay ignorance of the controlling areas of law.

STATEMENT OF THE CASE

Petitioner states that under the Copyright Act of 1790 the Congress of the United States was given the power to render exclusive rights for a limited time to authors for their writings.

The immaterial and invisible 'idea' embodied in a fact in the mind of its beholder is just that — an idea. Only until such time the author makes the immaterial and invisible, material and visible, by expression, through words, and given concreteness and tangibility, only then can the 'idea' embodied in the expression become as light as air, and given to whatever brethren for whatever use, but without

the expression, if protected under Title 17 USC of the Copyright Act of 1909. Any work by which the "ideas in the mind of the author are given visual expression" is a proper subject of copyright. Burrow-Giles Lithographic Co., v. Sarony (1883) 111 US 53, 58, 281 Ed 349, U.S. Ct. 279, U.S. District Court for the Southern District of New York, December 13, 1883 decided March 17, 1884.

Also, the Second Circuit Court of Appeals rendered a different opionion when trying a similar case by validating the petitioner's copyrights in the same situation. Diverse opinions of Courts of Appeals is present. (Opinions appended)

The courts dismissal in the First instance, and affirmed on Appeal, states that "ideas" can only be protected by a patent. Surely authors' ideas are as much ideas under the Statutes of 1790 and 1909 Title 17 USC as patents are, and as such, their expression is protected by the laws and enforced by the courts.

The above is in answer contrary to the opinion of both courts. U.S. v. O'Malley, Ill. 1966, 86 S. Ct. 1123, 383, U.S. 627, 16 L. Ed. 2d 145. Also, the Conflict of decisions of other Court of Appeals contrary results on construction of federal statute. U.S. v. Muniz et al, New York 1963, 83 C. Ct. 1850, 374 U.S. 150, 10 L. Ed. 2d 805. Certiorari to the U.S. C. of Appeals for the Second Cir. No. 464. Furthermore, can inferior Federal courts ignore any treaty, proclamation, or bi-lateral agreement the United States of America has internationally with copyright reciprocity as the subject, or is it the right solely of the Supreme Court of the United States of America to decide? Ross Products, Inc., plaintiff, v. N.Y.

Merchandise Co., Inc., defendant. U.S. Dist. Ct. Southern District of New York, May 18, 1964,[233] F. Sup. 260. If an alien can receive copyright protection under copyright reciprocity laws why should not the subject matter of said copyrights also apply to United States citizens in their own country. 24.748 - CNCiv, Court C, April 18, 1974. Pantano, Juan v. Jockey Club of the City of Buenos Aires. 2nd Instance. Buenos Aires, April 18, 1974. (English translation available). Also, only requirement of copyright is that it be original. Blenstein v. Donaldson Lithographic Co., (1903) The Circuit Court of Appeals for the Sixth Circuit. No. 117. Argues - decided February 2, 1903. 188 U.S. Rep. 239, 47 L. Ed. 460, 23 S. Ct. 298.

Furthermore, in count one of the dismissal from the United States District Court for the District of New Hampshire and upheld by the United States Court of Appeals for the First Circuit where 'sovereignty' was the reason for dismissal, the following is contradictory and should be controlling: In the Court's statement of "Since the action against Mr. Connors is really an action against the State of New Hampshire the complaints are dismissed on the grounds of sovereign immunity." (Opinions appended)

Under the Tucker Act of 1887 (now embodied in the USC Title 28, Section 250) See Belknap v. Schild, 161 U.S. 10 (1896) Court of the U.S. for the Northern District of California, No. 22-1895 Decided Feb. 3, 1896. As remarked by the Supreme Court in a patent case, "The exemption of the United States from judicial process does not protect their officers and agents, civil or military, in

time of peace from being personally liable to an action of tort by a private person whose rights of property they have wrongfully invaded or injured, even by authority of the United States such officers or agents, although acting under the order of the United States, are therefore personally liable to be sued for their own infringements of a patent".

In a recent copyright case, Towle v. Ross, et al 45 U.S. PQ 143 (1940) No. 13 District Court of Oregon February 26, 1940, the defendants acting as employees of the United States and for the benefit of the government, made photographic reproductions of an essential part of plaintiff's copyrighted map without his consent. Plaintiff got wind of this and objected, whereupon the work stopped and the reproductions were never used. Nevertheless plaintiff brought suit for infringement of copyright and damages against defendants individually. The court held that the making of these reproductions constituted infringement, whether defendants acted in good faith and by mistake or by design, since each had actual notice of the existing copyright. The court awarded plaintiff the statutory minimum damages of $250, but allowed no costs or attorney's fees. Said the c urt: "The position of defendants as emplyees of the United States cannot protect them from the award of damages. The immunity of the sovereign cannot in a republic immunize its agents also. The acts were done for the benefit of the government by the employees thereof. The foundations of arbitrary power would be firmly laid if the agents could violate the rights of citizens and themselves escape unscathed."

REASONS FOR GRANTING OF THE WRIT

The Petitioner, through council, in the First Instance, by virtue of his original writings, made it known, that by adhearing to the Copyright Act of 1790 allowing author's exclusive rights for their writings, and by following all Statutory requirements of the Copyright office regarding the Copyright Act of 1909 Title 17 USC, from which a Certificate of Copyright was issued to petitioner, a prima facie case of copyright was established.

By the infringement of the copyright under the First Amendment, Title 17 USC Section 8, Clause 8 of the Constitution, the Federal courts have controlling judicial jurisdiction of deciding the validity of copyrights when challenged. The total number of my copyrights, which number about twenty, all with the same subject, are possible exportable products with a greater or lessor amount of potential value which could be contributing to our balance of payments as well as is currently benefiting our racing industry but without compensation or recognition to the petitioner as was the similar situation in Argentina, (Citation previously mentioned.)

By the manifest error of both counts in the United States District Court for the District of New Hampshire and the United States Court of Appeals for the First Circuit, which is answered in the [1]statement of the case within this petition, and [2]the error of the Inferior courts by not upholding the law of the Land, which is absolute in cases involving treaties, conventions, agreements, etc., this case should be settled by this court.

As this petition stated previously, the Acts of 1790 and of 1909 Title 17 USC under the First Amendment Section 8, Clause 8, because of the courts dismissal the petitioner's Constitutional rights were denied him.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that the petition for writ of certiorari be granted.

Respectfully submitted,

746 Commercial Street LUCIO P. SALVUCCI
Weymouth, Mass. 02189 *Pro Se*

CERTIFICATE OF SERVICE

I, LUCIO P. SALVUCCI, Pro Se, Petitioner, hereby acknowledge that on July 17, 1976, I mailed a copy of the herein enclosed writ of certiorari to the United States Supreme Court through the U.S. Postal Service, postage prepaid, to the following:

McLane, Graf, Greene, Raulerson
40 Stark Street, Box 326
Manchester, New Hampshire 03105

Devine, Millimet, Stahl & Branch
1838 Elm Street
Manchester, New Hampshire 03105

746 Commercial Street LUCIO P. SALVUCCI
Weymouth, Mass. 02189 *Pro Se*

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 75-1434

LUCIO P. SALVUCCI et al.,
Plaintiffs, Appellants,

v.

NEW HAMPSHIRE JOCKEY CLUB, INC., et al.,
Defendants, Appelles.

Before Coffin, Chief Judge,
Aldrich and McEntee, Circuit Judges.

MEMORANDUM AND ORDER

Entered March 1, 1976

Per Curiam. On this appeal plaintiffs appellants, who have written and copyrighted certain material describing complicated betting systems for use when parties wish to bet on combinations as distinguished from a single horse or dog, brought suit against various racing

associations, alleging that, after notice, they adopted and followed plaintiffs' systems, in violation of the copyright laws. 17 U.S.C. § 101. From a dismissal of the complaint, plaintiffs appeal.

As the district court correctly divined in its memorandum opinion accompanying its dismissal, plaintiffs find themselves unable to accept the fundamental difference between copyright and patent protection, although their case is a classic example or illustration of it. A system of betting is an idea, or system. Affiliated Enterprises v. Gruber, 1 Cir., 1936, 86 F.2d 958. One acquires no protection in such by copyrighting a book about it. Baker v. Selden, 1880, 101 U.S. 99.

We have examined the record and plaintiffs' brief. The issue and the answer are so clear that no purpose would be served in hearing oral argument. Judgment is affirmed under Local Rule 12.

By the Court:
/s/ Dana H. Gallup
Clerk

[cc.: Messrs. Salvucci, Wells, Dunn and Ahlgren.]

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 75-1434.

LUCIO P. SALVUCCI, et al.,
Plaintiffs, Appellants,

v.

NEW HAMPSHIRE JOCKEY CLUB, INC., et al.,
Defendants, Appellees.

Before COFFIN, Chief Judge and
ALDRICH and McENTEE, Circuit Judges

ORDER OF COURT

Entered March 24, 1976

It is ordered that the petition for rehearing filed March 12, 1976, be, and the same hereby is, denied.

By the Court:
/s/ Dana H. Gallup
Clerk

[cc: Mr. Salvucci and Mr. Wells.]

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Lucio P. Salvucci	)	
	)	
v.	)	Civil Action
	)	No. 75-223
New Hampshire Jockey	)	
Club, Inc., et al	)	
Lucio P. Salvucci, et al	)	
	)	
v.	)	Civil Action
	)	No. 75-224
New Hampshire Jockey	)	
Club, Inc., et al	)	

ORDER

1. Both cases are dismissed as to Timothy Connors. The plaintiffs have sued "as he is Chairman of the New Hampshire Racing Commission." Since the action against Mr. Connors is really an action against the State of New Hampshire, the complaints are dismissed on the ground of sovereign immunity.

2. Both cases are dismissed for failure to state a cause of action. The basis of both complaints is that the plaintiffs have originated a wholly creative work protected by the copyright law which the defendants have appropriated. The work is a system of betting on horse

races. It has long been established that ideas cannot be protected by a copyright. See, Briggs v. New Hampshire Trotting and Breeding Association, Inc., 191 F. Supp. 234 (D. N.H. 1960) and the cases cited therein. The only way to protect an original creative idea is by a patent. It is obvious that the plaintiffs' betting systems are not patentable.

I appreciate the difficulty a layman will have in understanding this opinion, but the law is crystal clear. It is my opinion that it is futile for the plaintiffs to pursue this matter further.

SO ORDERED.

/s/ Hugh H. Bownes
United States District Judge

October 6, 1975

cc. Andrew Dunn, Esq.
Stephen T. Keefe, Jr., Esq.
John Ahlgren, Esq.

JUDGMENT ON DECISION BY THE COURT

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

Lucio P. Salvucci, et al	)	
	)	
v.	)	Civil Action File No.
	)	75-223 and 75-224
New Hampshire Jockey	)	
Club, Inc., et al	)	

This action came on for (hearing) before the Court, Honorable Hugh H. Bownes, United States District Judge, presiding, and the issues have been duly (heard) and a decision having been duly rendered,

It is Ordered and Adjudged judgment in accordance with ORDER entered October 6, 1975. Cases are dismissed.

Dated at Concord, New Hampshire, this 8th day of October, 1975.

/s/ William H. Barry, Jr.
Clerk of Court

cc. Andrew Dunn, Esq.
Stephen T. Keefe, Jr., Esq.
John L. Ahlgren, Esq.
Robert A. Wells, Esq.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LUCIO P. SALVUCCI	75 C 1236
Plaintiff,	
- against -	
THE NEW YORK RACING ASSN., INC., NEW YORK CITY OFF-TRACK BETTING CORP.; ROOSEVELT RACEWAY, INC.; and JOSEPH A. GIMMA, AS HE IS CHAIRMAN OF THE NEW YORK STATE RACING COMMISSION.	Memorandum or Decision and Order
Defendants.	

December 2, 1975

MISHLER, CH. J.

Defendants, New York Racing Association, Inc. (NYRA), Roosevelt Raceway, Inc. (Roosevelt), and Joseph A. Gimma, move for summary judgments, Rule 56 (F.R. Civ.P.).[1]

[1] All the motions seek alternative relief under F.R.C.P. 12(b)(6), i.e., to dismiss the complaint for "failure to state a claim upon which relief can be granted." All the parties, with the exception of Gimma, submitted affidavits.

Plaintiff alleges four counts of copyright infringement; each separately directed against one of the four defendants. He claims that he is the owner of copyrighted works registered in the office of the Register of Copyrights on April 2, 1962, as Tri-3 Double and Tri-3.[2]

Pari-mutuel betting is controlled by statute in New York State — N.Y. Unconsolidated Laws, §§7952, 7954 and 8008. Methods of betting at authorized establishments are sanctioned by the New York State Racing and Control Board. In addition to conventional betting at thoroughbred and harness race tracks, the Board has approved the Daily Double, Quinella, Exacta, Trifecta (sometimes called the triple), and Superfecta.[3]

2

The copyrighted works consist of methods of betting. The methods as described in the certificate of registration are appended to this memorandum of decision and order.

3

In the Daily Double, the bettor must select the winner in each of two designated races.

In the Quinella, the bettor must select the two horses in each of two designated races that finish first and second.

In the Exacta, the bettor must select the first two horses in their actual order of finish in the designated race.

The Tri-Fecta (Triple) is a variation of the Exacta. The first three horses in the designated race must be selected in their actual finish.

The Superfecta is a further variation of the Exacta: the first four horses are selected in their order of finish.

The method of betting is not copyrightable. Novel and useful ideas may attain patent protection, but not copyright protection. In Baker v. Selden, 101 U.S. 99 (1880), plaintiff obtained a copyright on a book explaining a system of bookkeeping. The court dismissed the claimed copyright infringement noting:

> *There is no doubt that a work on the subject of bookkeeping though only explanatory of well known systems, may be the subject of a copyright; but, then, it is claimed only as a book . . .The novelty of the art or thing described or explained has nothing to do with the validity of the copyright. . .*
>
> *. . .The copyright of a book on bookkeeping cannot secure the exclusive right to make, sell and use account books prepared upon a plan set forth in such book. . .101 U.S. at 101-02, 104.*

It is the manner of expressing and not the idea itself which is copyrightable. L. Ratlin & Son, Inc. v. Jeffrey Snyder, d/b/a J.S. and Etna Products Co., Inc. No. 75-7308 (2d Cir. October 24, 1975); Roth Greeting Cards v. United Car Co., 429 f.2d 1106 (9th Cir. 1970); Welles v. Columbia Broadcasting System, Inc., 308 F.2d 810 (9th Cir. 1962). The instant copyrights attempt to protect the method of betting and are invalid.[4] Alternatively, should

4

Plaintiff's copyrights were held invalid in Salvucci v. New Hampshire Jockey Club, No. 75-223 and 75-224 (D.N.H. October 6, 1975). The court is advised that the decision is on appeal.

the complaint be interpreted as an infringement of the expression of the betting method, rather than the method itself, the court finds no genuine issue of fact exists since plaintiff's method of expression was never employed by defendants.

The limited copyright of the expression of the methods of betting was not infringed. Defendants' motions are in all respects granted, and it is

SO ORDERED.

The Clerk of the Court is directed to enter judgment in favor of defendants and against plaintiff dismissing the complaints.

/s/ Jacob Mishler
U.S.D.J.

APPENDIX

TRI - 3 DOUBLE

TRI-3 DOUBLE is a finish position play or wager consisting of positions 1, 2 and 3 in 2 races on horses or dogs.

The object of this TRI-3 DOUBLE is to select correctly the chosen finish positions in both races of the play or wager. Winning tickets with the correct first three chosen positions (first half of the TRI-3 DOUBLE) must be exchanged for your selections on the second half of TRI-3 DOUBLE.

The person(s) getting the most consecutive correct finish positions starting with their first chosen finish position on the first half of the TRI-3 DOUBLE ticket will be the winner.

TRI - 3

TRI-3 is a 3 finish position play or wager on horses or dogs.

The object is to select correctly all finish positions starting with your first chosen finish position of your TRI-3 ticket.

If no one selects correctly all three finish positions, then the person(s) getting the most consecutive correct finish positions starting with their first chosen finish position of their TRI-3 ticket is the winner.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New york, on the Twenty-first day of April one thousand nine hundred and seventy-six.

PRESENT:

Honorable Henry J. Friendly
Honorable Paul R. Hays
Honorable Thomas J. Meskill

LUCIO P. SALVUCCI,

Plaintiff-Appellant,

#76-7022

v.

THE NEW YORK RACING ASSOCIATION, INC.; NEW YORK CITY OFF-TRACK BETTING CORP,; ROOSEVELT RACEWAY, INC.; and JOSEPH A. GIMMA, CHAIRMAN, NEW YORK STATE RACING COMMISSION,

Defendants-Appellees.

Appeal from the United States District Court for the Eastern District of New York.

This cause came on to be heard on the transcipt of record from the United States District Court for the Eastern District of New York, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the judgment of said District Court is affirmed on the opinion of Chief Judge Mishler, _____F. Supp. _____, dated December 2, 1975.

/s/ Henry J. Friendly
/s/ Paul R. Hays
/s/ Thomas J. Meskill

PROCLAMATIONS, 1934.

Copyright — Argentina

BY THE PRESIDENT OF THE
UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it is provided by the act of Congress approved March 4, 1909 (ch. 320, 35 Stat. 1075-1088), entitled "An Act To amend and consolidate the Acts respecting copyright", that the copyright secured by the act, except the benefits under section 1 (e) thereof as to which special conditions are imposed, shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only upon certain conditions set forth in section 8 of the act, to wit:

"(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

"(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting

of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto"; and

WHEREAS it is provided by section 1 (e) that the provisions of the act "so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after this Act goes into effect, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights"; and

WHEREAS the President is authorized by section 8 to determine by proclamation made from time to time the existence of the reciprocal conditions aforesaid, as the purposes of the act may require; and

WHEREAS satisfactory official assurances have been received that on and after August 23, 1934, citizens of the United States will be entitled to obtain copyright for their works in Argentina which is substantially equal to the protection afforded by the copyright laws of the United States, including rights similar to those provided by section 1 (e);

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do declare and proclaim:

That on and after August 23, 1934, the conditions specified in sections 8 (b) and 1 (e) of the act of March 4, 1909, will exist and be fulfilled in respect of the citizens of the Argentine Republic and that on and after August 23, 1934, citizens of the Argentine Republic shall be entitled to all the benefits of this act and acts amendatory thereof:

Provided, That the enjoyment by any work of the rights and benefits conferred by the act of March 4, 1909, and the acts amendatory thereof, shall be conditional upon compliance with the requirements and formalities prescribed with respect to such works by the copyright laws of the United States;

And provided further, That the provisions of section 1 (e) of the act of March 4, 1909, insofar as they secure copyright controlling parts of instruments serving to reproduce mechanically musical works shall apply only to compositions published after July 1, 1909, and registered for copyright in the United States which have not been reproduced within the United States prior to August 23, 1934, on any contrivance by means of which the work may be mechanically performed.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of American to be affixed.

DONE at the City of Washington this 23d day of August, in the year of our Lord nineteen hundred [seal] and thirty-four, and of the Independence of the United States of America the one hundred and fifty-ninth.

FRANKLIN D. ROOSEVELT

By the President:
WILLIAM PHILLIPS
Acting Secretary of State.

[No. 2095]